



THE UNIVERSITY *of* EDINBURGH

## Edinburgh Research Explorer

# Matthew Tindal's Rights of the Christian Church (1706) and the Church-State Relationship

### Citation for published version:

Levitin, D 2011, 'Matthew Tindal's Rights of the Christian Church (1706) and the Church-State Relationship', *Historical Journal*, vol. 54, no. 3, pp. 717-740. <https://doi.org/10.1017/S0018246X11000045>

### Digital Object Identifier (DOI):

[10.1017/S0018246X11000045](https://doi.org/10.1017/S0018246X11000045)

### Link:

[Link to publication record in Edinburgh Research Explorer](#)

### Document Version:

Publisher's PDF, also known as Version of record

### Published In:

Historical Journal

### Publisher Rights Statement:

© Levitin, D. (2011). Matthew Tindal's Rights of the Christian Church (1706) and the Church-State Relationship. *Historical Journal*, 54(3), 717-740doi: 10.1017/S0018246X11000045

### General rights

Copyright for the publications made accessible via the Edinburgh Research Explorer is retained by the author(s) and / or other copyright owners and it is a condition of accessing these publications that users recognise and abide by the legal requirements associated with these rights.

### Take down policy

The University of Edinburgh has made every reasonable effort to ensure that Edinburgh Research Explorer content complies with UK legislation. If you believe that the public display of this file breaches copyright please contact [openaccess@ed.ac.uk](mailto:openaccess@ed.ac.uk) providing details, and we will remove access to the work immediately and investigate your claim.



# The Historical Journal

<http://journals.cambridge.org/HIS>

Additional services for *The Historical Journal*:

Email alerts: [Click here](#)

Subscriptions: [Click here](#)

Commercial reprints: [Click here](#)

Terms of use : [Click here](#)



---

## MATTHEW TINDAL'S *RIGHTS OF THE CHRISTIAN CHURCH* (1706) AND THE CHURCH–STATE RELATIONSHIP

DMITRI LEVITIN

The Historical Journal / Volume 54 / Issue 03 / September 2011, pp 717 - 740  
DOI: 10.1017/S0018246X11000045, Published online: 29 July 2011

**Link to this article:** [http://journals.cambridge.org/abstract\\_S0018246X11000045](http://journals.cambridge.org/abstract_S0018246X11000045)

### How to cite this article:

DMITRI LEVITIN (2011). MATTHEW TINDAL'S *RIGHTS OF THE CHRISTIAN CHURCH* (1706) AND THE CHURCH–STATE RELATIONSHIP. The Historical Journal, 54, pp 717–740 doi:10.1017/S0018246X11000045

**Request Permissions :** [Click here](#)

## MATTHEW TINDAL'S *RIGHTS OF THE CHRISTIAN CHURCH* (1706) AND THE CHURCH–STATE RELATIONSHIP\*

DMITRI LEVITIN

*Trinity College, Cambridge*

**ABSTRACT.** *Matthew Tindal's Rights of the Christian church (1706), which elicited more than thirty contemporary replies, was a major interjection in the ongoing debates about the relationship between church and state in late seventeenth- and early eighteenth-century England. Historians have usually seen Tindal's work as an exemplar of the 'republican civil religion' that had its roots in Hobbes and Harrington, and putatively formed the essence of radical whig thought in the wake of the Glorious Revolution. But this is to misunderstand the Rights. To comprehend what Tindal perceived himself as doing we need to move away from the history of putatively 'political' issues to the histories of ecclesiastical jurisprudence, patristic scholarship, and biblical exegesis. The contemporary significance of Tindal's work was twofold: methodologically, it challenged Anglican patristic scholarship as a means of reaching consensus on modern ecclesiological issues; positively, it offered a powerful argument for ecclesiastical supremacy lying in crown-in-parliament, drawing on a legal tradition stretching back to Christopher St Germain (1460–1540) and on Tindal's own legal background. Tindal's text provides a case study for the tentative proposition that 'republicanism', whether as a programme or a 'language', had far less impact on English anticlericalism and contemporary debates over the church–state relationship than the current historiography suggests.*

---

The three decades following the 1688 Revolution saw a drastic renegotiation of the church–state relationship. The Church of England's status as national church was undermined by the Toleration Act and by the practice of occasional conformity to evade the strictures of the Test and Corporation Acts. The spectacular sacking of several bishops at the Revolution raised the spectre of Erastianism, by then broadly understood as the state's superiority over the church in ecclesiastical matters, and of a politically divided church. The whigs backed the regime of Archbishops Tillotson and Tenison and their lieutenants, notably Gilbert Burnet. They were attacked by nonjurors (opposers of the episcopal deprivations) and high-church Anglicans who aligned the Tillotson supporters with the theologically heterodox fringe. But if this was the last great age of theological controversy – especially on the trinitarian dogma – it was the church–state relationship that stimulated the most acrimonious debate. Whig thought fed into

*Trinity College, Cambridge* CB2 1TQ dl313@cam.ac.uk

\* I am grateful to Mark Goldie, Ceri Law, Jacqueline Rose, and Maria Sbiti for invaluable assistance.

deeper traditions of Protestantism, which 'had oscillated between an Erastian reverence for the prince's role in protecting the pursuit of godliness and a populist tradition of not tarrying for the magistrate'.<sup>1</sup> This was a debate still conducted in the shadow of England's 'long Reformation', for the whig position was countered by the tory/high-church cry for the revival of the church's Restoration powers, presented by them as the true inheritance of a clerical Reformation. The Convocation controversy of the 1690s, the debate over occasional conformity, the Sacheverell affair of 1709–10, and the Bangorian controversy from 1716 would all elicit hundreds of printed tracts. Both cleric and freethinker rushed to discuss the latest literature, leading to the ultimate reconstruction of the politico-ecclesiastical establishment in 1717 with the king's dismissal of the Convocation, which had appointed a committee to proscribe Bishop Hoadly's inflammatory and vividly Erastian sermon.<sup>2</sup>

Amidst these debates, a most curious work was published. Given that it was a substantial length book, written not as a *pièce d'occasion* but as a full scholarly analysis, and saturated with references to legal precedent and to historical events over two millenia, Matthew Tindal's *Rights of the Christian church* (1706) achieved a remarkable degree of notoriety. It elicited more than thirty contemporary responses, a level of interest in a full-length work probably unmatched since the furore over Hobbes's *Leviathan*.<sup>3</sup> Its popularity led to three further reprints before 1710, and to two *Defences* by Tindal.<sup>4</sup> Its notoriety reached the continent through the journalistic endeavour of the great Amsterdam-based Swiss scholar, Jean le Clerc.<sup>5</sup>

Tindal's work had two major and overriding motifs: that the claim to an independent clerical *sacerdos* jeopardized first the ability of the sovereign to fulfil his duty to protect his subjects, and secondly the efforts of individuals to secure

<sup>1</sup> M. Goldie, 'Priestcraft and the birth of whiggism', in N. Phillipson and Q. Skinner, eds., *Political discourse in early modern Britain* (Cambridge, 1993), pp. 209–31 at p. 215.

<sup>2</sup> N. Sykes, *William Wake* (Cambridge, 1957); G. V. Bennett, 'Conflict in the church', in G. Holmes, ed., *Britain after the Glorious Revolution, 1689–1714* (London, 1969), pp. 155–76; G. V. Bennett, *The Tory crisis in church and state, 1688–1730* (Oxford, 1975); M. Goldie, 'The nonjurors, episcopacy, and the origins of the Convocation controversy', in E. Cruickshanks, ed., *Ideology and conspiracy: aspects of Jacobitism, 1689–1759* (Edinburgh, 1982), pp. 15–35; A. Starkie, *The Church of England and the Bangorian controversy, 1716–1721* (Oxford, 2007).

<sup>3</sup> J. Parkin, *Taming the Leviathan: the reception of the political and religious ideas of Thomas Hobbes in England, 1640–1700* (Cambridge, 2007).

<sup>4</sup> 2nd edn: 1706; 3rd edn: 1707; 4th edn: 1709. All published anonymously, with no printer's or publisher's name. All references are to the second edition. And [Tindal], *A defence of the rights* (London, 1707); idem, *A second defence* (London, 1708).

<sup>5</sup> Before le Clerc, Locke's friend and translator Pierre Coste reviewed the *Rights* in Henri Basnage de Beauval's journal *Histoire des ouvrages des savans* (Dec. 1705), pp. 506–47. Limits of space dictate that continental reception is a subject outside the scope of this study; the rapidity of Coste's review suggests that personal acquaintance within the Locke circle played a part. The relevant le Clerc texts: [Jean le Clerc], 'Les droits de l'église chrétienne défendu ...', *Bibliothèque choisie*, 10 (1706) = *Mr Le Clerc's extract and judgement of the rights of the Christian church* (London, 1708); [le Clerc], *Bibliothèque choisie*, 21 (1710), pp. 4–95 = *The rights adjusted* (London, 1711). See the brief discussion in S. A. Golden, *Jean LeClerc* (New York, NY, 1972), pp. 81–4.

salvation through rational personal inquiry. These themes were developed in a long introduction and longer preface, and in ten chapters whose content can be summarized in three groupings: (1) that there cannot be two independent legislative powers in the same society, and that the church's claim to jurisdictional independency has been the source of the majority of the problems that have historically beset Christianity (chapters 1, 5–8); (2) that the clergy have no special spiritual power, whether *jure divino* episcopacy or as a select intellectual elite (chapters 2, 3, 9); (3) that there can be no set form of ecclesiastical government, but that decided by free congregations of conscientious believers (chapters 4, 10). The work thus achieved the somewhat surprising blend of Erastianism and Lockean tolerationism – ‘The church is a private society, and no more power belonging to it than to other private companies and clubs’ – where, as for Locke, atheists were excluded from toleration for the *political* reason that they were incapable of oath-taking (but interestingly Catholics were not).<sup>6</sup>

Tindal's work has never received thoroughgoing analysis. But it has obtained a privileged (if brief) place in recent narratives of historians of political thought. Tindal's system, we are told, was the culmination of a tradition of ‘republican civil religion’. In England, this tradition supposedly had its roots in Hobbes's Erastianism, as appropriated by James Harrington. It was picked up by the more radical whigs of the late seventeenth and early eighteenth centuries: ‘The thought of Hobbes and Harrington simultaneously articulated with new conceptual strength both anticlericalism and civil religion as antidotes to priestly power; these resonated within early Whig thought and early Enlightenment republican civil religion.’<sup>7</sup> This narrative has been further buttressed by recent claims for the existence of a ‘Hobbesian’ tolerationist tradition, loosely defined as ‘Erastian tolerationism’, which seems to fit in seamlessly with Harringtonian ‘civil religion’. Tindal's *Rights* was simply the ultimate manifestation of this powerful tradition: ‘Tindal amalgamated a largely Lockean case for rights with a partially Harringtonian Erastianism’.<sup>8</sup> It was a republican civil religion that characterized

<sup>6</sup> [Matthew Tindal], *The rights of the Christian church asserted, against the romish and all other priests, who claim an independent power over it* (London, 1706), p. xxx, on atheists: p. 18; [John Locke], *A letter concerning toleration* (London, 1689), p. 51. The distinction between Protestant and Catholic religious absolutism may have been tempered by Tindal's reading of Robert Molesworth's *Account of Denmark* (1694): *Rights*, pp. 274–5.

<sup>7</sup> J. Marshall, ‘Some intellectual consequences of the English revolution’, *European Legacy*, 5 (2000), pp. 515–30 at p. 519. The key texts in this historiographical tradition are C. Robbins, *The eighteenth-century commonwealthsmen* (Cambridge, MA, 1959); J. G. A. Pocock, *The Machiavellian moment* (Princeton, NJ, 1975); idem, ed., *The political writings of James Harrington* (Cambridge, 1977), ‘Introduction’; idem, *Virtue, commerce and history* (Cambridge, 1985), pt 3; Edmund Ludlow: *a voice from the watchtower* (Camden Fourth Series, vol. 21, London, 1978), ed. A. B. Worden, ‘Introduction’; M. Goldie, ‘The civil religion of James Harrington’, in A. Pagden, ed., *The languages of political theory in early-modern Europe* (Cambridge, 1987), pp. 197–223; Goldie, ‘Priestcraft’; J. A. I. Champion, *The pillars of priestcraft shaken: the Church of England and its enemies, 1660–1730* (Cambridge, 1992); idem, *Republican learning: John Toland and the crisis of Christian culture, 1696–1722* (Manchester, 2003).

<sup>8</sup> Marshall, ‘Intellectual consequences’, p. 519; cf. Champion, *Pillars*, pp. 136–7; Starkie, *Bangorian*, pp. 124, 128; J. A. I. Champion, ‘“Le culte privé est libre quand il est rendu dans le secret”: Hobbes,

Tindal's important contribution to English debates on church and state, a conclusion made all the easier because of Tindal's classification as a 'deist' – a mark of the 'rationalism' that is supposedly a tell-tale sign of republican attitudes.<sup>9</sup>

In the case of the *Rights*, this narrative is almost entirely mistaken. This article shows that Tindal's 'Erastian tolerationism' had its antecedents not in humanist civil religion but in an English Protestant legal tradition of placing ecclesiastical supremacy in crown-in-parliament, derived from the sixteenth-century lawyer, Christopher St Germain. The failure to distinguish between humanist republican civil religion (as appropriated by Hobbes and Harrington) and the limited Erastianism of whigs like Tindal has led to the misleading conclusion that the language of republican civil religion was the underlying ideology (or language) behind that most important of phenomena, whig anticlericalism. Tindal's Erastianism was not derived from Hobbist claims for unity through civil control over matters ecclesiastical, but from a constitutional claim to the power of crown-in-parliament over clerical Convocation. It was this distinction that allowed the free play of Lockean tolerationism.

But this was not the only significance of Tindal's work. Before he could appropriate the St Germanian discourse, Tindal had to undermine the foundations of the Anglican case for *jure divino* episcopacy and the independent jurisdictional rights of the clergy. Again, the story moves us away from the traditional domains of 'political thought'. From the Restoration, Anglican apologists had conducted debates on the nature of church government primarily on the battlefield of patristic scholarship. This methodological hegemony was shaken in the Convocation controversy of the late 1690s, when whigs, high-churchmen, and nonjurors turned to arguments from Reformation constitutional precedent, partly in an attempt to resolve the inconclusiveness and lack of immediate popular appeal of intricate patristic scholarship. Tindal pushed this trend to its limit: much of his work should be read as a methodological rumination on the practice of history, a rumination whose polemical target was the belief that any politico-ecclesiastical orthodoxy could be extracted from patristic testimony, and which functioned as a sidestepping of the methodology of Anglican apologetics. Taken in the context of the 1690s, this tended towards a doctrinal irenicism.

---

Locke et les limites de la tolérance, l'athéisme et l'hétérodoxie', in Yves Charles Zarka, Franck Lessay and John Rogers, eds., *Les fondements philosophiques de la tolérance* (Paris, 2002), pp. 221–53, translation available (22 Feb. 2011) at <http://eprints.rhul.ac.uk/147/>, p. 13. The case of Tindal is used to introduce the discussion – he is presented as an amalgam of Hobbes and Locke.

<sup>9</sup> B. Worden, 'The Revolution of 1688–9 and the English republican tradition', in J. I. Israel ed., *The Anglo-Dutch moment: essays on the Glorious Revolution and its world impact* (Cambridge, 1991), pp. 241–80 at p. 252: making the excruciatingly vague point that 'rationalists in politics, the republicans are rationalists too in religion'. Elsewhere, Worden accords to Tindal a place in the supposed republican secret society, the 'Calves-Head Club', without providing any evidence for the claim: Worden, 'Introduction', p. 19.

## I

None of Tindal's private papers survives, so what we know of his intellectual biography can be sketched out briefly. Qualifying as a lawyer and moving on to a fellowship at All Souls College, Oxford, Tindal converted to Catholicism during James II's reign. Although the evidence suggests that he returned to the Church of England before the Revolution, taking communion from the warden of All Souls on Easter Day 1688, accusations of religious opportunism would follow him for the rest of his life, not least in the polemics directed towards him after the publication of the *Rights*.<sup>10</sup> Tindal's religious reputation remained highly dubious from then on. After the publication of the *Rights*, George Hickes was to print a letter to him by John Locke's old opponent, Jonas Proast, which claimed that as early as the mid-1690s Tindal had been heard denying revelation.<sup>11</sup> Tindal's reputation as a 'deist' was sealed with the publication of his *Christianity as old as creation* in 1730, three years before his death.<sup>12</sup> The fame of this work has led historians proleptically to label his previous works as 'deistic'. At worst, this leads to little more analysis than regurgitated claims of Tindal's clerical opponents, not least in Oxford rumour from the mid-1690s onwards.<sup>13</sup> The inevitable consequence is ignorance of Tindal's actual intellectual backgrounds. The most important of these was undoubtedly his legal training. Despite the embarrassment of his conversion, Tindal cemented his reputation as a staunch whig defender of the legality of the Revolution, publishing a work attacking the Jacobite claim that allegiance had to be maintained to a legally-established sovereign, and successfully prosecuting as pirates some sailors who had been operating under letters of marque from James II.<sup>14</sup> Passages of his work clearly plagiarized the *Second treatise*.<sup>15</sup> Locke's influence was further evidenced in Tindal's contribution to the ra-

<sup>10</sup> Stephen Lalor, *Matthew Tindal, freethinker: an eighteenth-century assault on religion* (London, 2006), pp. 9–36, for a full biography.

<sup>11</sup> George Hickes, 'A preliminary discourse', in [William Carrol], *Spinoza reviv'd* (London, 1709), sigs. bv–b2r.

<sup>12</sup> I. Rivers, *Reason, grace, and sentiment* (2 vols., Cambridge, 1992–2000), II, pp. 76ff, passim.

<sup>13</sup> The most unfortunate consequence is the blind acceptance of the clerical claim that Tindal was a closet Spinozist: J. Israel, *Radical Enlightenment: philosophy and the making of modernity, 1650–1750* (Oxford, 2001), pp. 620–2; Anne Barbeau Gardiner, "'Be ye as the horse!': Swift, Spinoza, and the Society of Virtuous Atheists", *Studies in Philology*, 97 (2000), pp. 229–53 at p. 233. Lalor, *Tindal*, follows the esoteric hermeneutic to assert that Tindal was an atheist. For Oxford circulation of rumours of Tindal's impiety see Thomas Hearne, *Remarks and collections of Thomas Hearne* (3 vols., Oxford, 1885), I, pp. 193, 237, 240, II, pp. 72, 294, III, pp. 255, 341, 439; the biography by Jon Percival, first earl of Egmont (1683–1748), British Library MS 47119, fos. 169v–171r; Edmund Curll, *Memoirs of the life and writings of Matthew Tindal, LLD* (London, 1733); [anon.], *The religious, rational, and moral conduct of Matthew Tindal, LLD* (London, 1735).

<sup>14</sup> [Tindal], *An essay concerning obedience to the supreme powers* (London, 1694); Matthew Tindal, *An essay concerning the laws of nations* (London, 1694). Lalor, *Tindal*, p. 5, mistakes which was published anonymously.

<sup>15</sup> The plagiarisms in Tindal's *Obedience* were first detailed in R. Ashcraft and M. M. Goldsmith, 'Locke, revolution principles and the formation of whig ideology', *Historical Journal*, 26 (1983), pp. 773–800 at pp. 777 n. 19.

ging trinitarian controversy, where Tindal used distinctly Lockean language to berate the ‘priestcraft’ by which the clergy had putatively sought to trick the laity into submission by the propagation of ‘mystery’.<sup>16</sup> Most important for our context here is Tindal’s further appropriation from Locke’s *Letters concerning toleration* in his *Essay concerning the power of the magistrate ... in matters of religion* (1697). Tindal argued that jurisdiction in matters indifferent – *adiaphora* – could not have been included in the package of powers transferred to the magistrate in an original contract, given that it had nothing to do with the preservation of society. Reverting to the classic reformed trope that the only duty required of a Christian is to make an impartial search for truth, free from any imposition of doctrine, Tindal promoted a separation of religion and politics in a manner which he explicitly compared to that of the *Letters concerning toleration*.<sup>17</sup>

We must read this final work as a direct intellectual precursor to the engagement with the issue of church–state relations that was to be found in the *Rights*. *Power of the magistrate* contained a ‘Postscript’, obviously directed at the author of the *Letter to a Convocation man* (late 1696), the high-church propagandist, Francis Atterbury. Atterbury set out a case for the Convocation of the Church of England to meet independent of, and alongside, parliament. Tindal’s response in the ‘Postscript’ – entirely unnoticed by historians of the Convocation controversy – was unequivocal, and intrinsically tied to his Lockean case for toleration. Convocation had no right to infringe on the liberties of Protestant believers, ‘who are to be tied up by no Laws about indifferent things (which alone are subject to humane Empire)’.<sup>18</sup> Moreover, the ‘Postscript’ announced that Tindal was already working on another piece of anticlerical ecclesiology, which must have been the work that mutated into the *Rights*.<sup>19</sup>

It is important to trace the genesis of the *Rights* in this way, for we see that the work was a direct product of preceding controversies. Turning to the work itself, only a tiny portion of it – the Introduction – is written in the abstract language that usually interests historians of ‘political thought’, consisting of a repudiation of patriarchalism in favour of a consent-based system. The much longer Preface eschews such abstractions, in favour of a long exposition of the legal status of the church in post-Reformation England. The remaining 400 pages of the book deal with similarly abstruse topics: Jewish history, patristics, scriptural exegesis, and theology. How do we explain this deviation from the supposed conceptual underpinnings of ‘Erastian tolerationism’, that is, the merging of the political theory of Hobbes, Harrington, and Locke in a cauldron of republican ‘civil religion’? Is it simply a manifestation of the judgement of one modern historian, that Tindal

<sup>16</sup> [Tindal], *A letter to the reverend the clergy of both universities* (n.p., [London], 1694); for a full discussion of this work and Tindal’s relationship with Locke: Dmitri Levitin, ‘Reconsidering John Sergeant’s attacks on Locke’s *Essay*’, *Intellectual History Review*, 20 (2010), pp. 457–77.

<sup>17</sup> [Tindal], *An essay concerning the power of the magistrate* (London, 1697), pp. 2, 113, 183.

<sup>18</sup> [Tindal], ‘Postscript’, *Power of the magistrate*, p. 201. Lalor, *Tindal*, pp. 45–7 briefly discusses the ‘Postscript’ but does not place it in the context of the Convocation controversy, rather in the debate over freedom of the press.

<sup>19</sup> [Tindal], ‘Postscript’, p. 187.



was ‘not much of a thinker’?<sup>20</sup> Or was the debate over the church–state relationship conducted in terms other than those assumed by historians of political thought?

## II

Tindal was contributing to a debate that has to be contextualized back to 1660. ‘The Restoration marks a watershed point in the church’s long post-Reformation experiment with Erastianism.’<sup>21</sup> The problem of nonconformity, the example of the Civil War, the issue of Charles II’s Catholic sympathies and the subsequent possibility of a sovereign-imposed toleration, and the insistence of Clarendon on royal supremacy led to a firm reassertion of the English church’s independence. ‘The [Catholic] dualist concept of two spheres of authority, temporal and spiritual began a recovery. The English Revolution, by attaching the church more firmly to a *jure divino* view of its own authority, wrought this new intellectual consensus in the church.’<sup>22</sup> The legacy of the Reformation, and especially the Act of Royal Supremacy as codified by the Elizabethan Act of 1559, had cemented the monarch’s role as the head of the church to such an extent that even that arch-clericalist, William Laud, had insisted on the king’s role as the leader of the spiritual estate. The Restoration bishops, for all their reverence to the archbishop, moved beyond his conception of episcopacy–court relations. What developed was an ‘episcopal anti-Erastianism’, inspired by Henry Hammond’s Civil War writings, which ‘further insisted that the English church could claim divine right for its bishops without succumbing to Roman Catholicism’.<sup>23</sup> Restoration defenders of the church’s independent power resorted to the Catholic theory of the ‘two societies’ – since the church was instituted for spiritual ends, it must have a power of self-government outside the prerogative of the secular powers.<sup>24</sup>

But how were these issues debated? Of course, legal precedent (in parliamentary debates) and natural law theory (in a minority of printed works) continued to play a role.<sup>25</sup> But crucially, the contest for defining the church’s institutional place was, after the Restoration, primarily conducted on a very different battleground: patristic scholarship. The magisterial work of Jean-Louis Quantin has recently taught us that the ‘notion of a religious exceptionalism, or a *via media* legitimized

<sup>20</sup> Israel, *Radical*, p. 620; following Peter Harrison, ‘*Religion*’ and the religions in the *English Enlightenment* (Cambridge, 1990), p. 167.

<sup>21</sup> J. R. Collins, ‘The Restoration bishops and the royal supremacy’, *Church History*, 68 (1999), pp. 549–80 at p. 549. Cf. John Spurr, *The Restoration Church of England, 1646–1689* (New Haven, CT, 1991); Jacqueline Rose, ‘Royal ecclesiastical supremacy and the Restoration church’, *Historical Research*, 80 (2007), pp. 324–45.

<sup>22</sup> Collins, ‘Royal supremacy’, pp. 549–50.

<sup>23</sup> *Ibid.*, pp. 556, 562. For Hammond’s importance in the Restoration see Spurr, *Restoration*, p. 138.

<sup>24</sup> Goldie, ‘Convocation controversy’, pp. 18–19; Spurr, *Restoration*, p. 146.

<sup>25</sup> Jacqueline Rose, ‘Concepts of royal ecclesiastical supremacy in Restoration England’ (Ph.D. thesis, Cambridge, 2007), pp. 59–99, to which I owe a great debt. On the importance of religious issues to Restoration parliaments see Paul Seaward, *The Cavalier parliament and the reconstruction of the old regime, 1661–1667* (Cambridge, 1988).

by the appeal to antiquity', was not, as so many previously claimed, a defining feature of the English church since the time of Jewel and Hooker, but that 'Only after the Restoration did the reference to antiquity become essential to the new synthesis which, by that time, can fairly be called Anglicanism.'<sup>26</sup> It was ante-Nicene antiquity, and especially the third-century church fathers, Cyprian and Novatian, which furnished the Restoration church apologists with their most powerful weapons. These were directed both at the despised dissenters, constantly berated for ignoring the consensus of the primitive ages as to the necessity of conforming,<sup>27</sup> and against the Catholic claim to an unbroken tradition as a compliment to scriptural authority. Extensive scholarship by the likes of Henry Dodwell, Herbert Thorndike, Henry Maurice, and William Cave buttressed the claim that episcopacy was the true primitive model of church government, although differences continued to exist over the extent to which primitive existence could be coupled with *jus divinum*. Tradition was 'appealed to as an interpreter, not a supplement', although this stance could slip dangerously close to Catholicism, as reformed critics like John Owen consistently reminded their Anglican opponents, drawing on the classic text of scepticism towards the recovery of a patristic identity, Jean Daillé's *Traicte de l'employ des Saints Peres* (1632).<sup>28</sup> As it became 'impossible to define the Church of England by its coextensiveness with the nation' even in the Laudian sense, 'Episcopalians comforted themselves with their conformity to the past and their linear descent from the Fathers.'<sup>29</sup>

But patristics was something of a Pandora's box: if it offered Anglicans the self-confidence to assert the dualist theory of two spheres of authority, it also raised the pressure on the scholarly case in times of political strife. The historical grounds for persecution proved convincing during the Exclusion Crisis; matters would unfold differently after 1688, specifically in the Convocation controversy. As we saw, it was this debate which formed the backdrop for Tindal's *Rights*, which is full of scathing attacks on high-church and nonjuror works that appeared in the wake of the initial debates, not only Dodwell but also Samuel Hill's *Municipium ecclesiasticum* (1697), Charles Leslie's *Regale and pontificate* (1701), and Sacheverell's *Character of a low churchman* (1702).<sup>30</sup>

The legal status of Convocation was on one hand clear: the Act of Submission of the Clergy (24 Henry VIII, c. 12) meant that synods could not meet nor canons be legislated without the crown's direct authorization. Matters were muddled by the fact that subsequent Convocations did meet; however, after the Restoration

<sup>26</sup> Jean-Louis Quantin, *The Church of England and Christian antiquity* (Oxford, 2009), pp. 397–98 and passim.

<sup>27</sup> The important point that the case for persecuting dissenters was usually not Erastian but drew on patristics is made in M. Goldie, 'The theory of religious intolerance in Restoration England', in O. P. Grell, Nicholas Tyacke, and J. Israel, eds., *From persecution to toleration* (Oxford, 1991), pp. 331–68.

<sup>28</sup> Quantin, *Antiquity*, p. 400 and passim.

<sup>29</sup> *Ibid.*, p. 404.

<sup>30</sup> [Tindal], *Rights*, pp. lxxiii–lxxiv (against Dodwell), lxxv–lxxvii (against Leslie), lxxvii–lxxviii (against Hill), lxxviii (against Sacheverell).

their import seemed to dwindle, a status quo most spectacularly demonstrated by the abrupt dismissal of the Convocation of 1689 in the face of its opposition to comprehension. But from the early 1690s, nonjurors actively campaigned for an independent power for the church and decried the unlawfulness of lay deprivation of episcopal power. The nonjuring schism aligned some of the most powerful exponents of Anglican theology against the new leadership of the church, going as far as to accuse the new episcopate – men like Tillotson, Tenison, and Stillingfleet – of heresy for their valuing of unity above the doctrinal exactitude high-churchmen claimed to find in patristic precedent. Consequently, there emerged a renewed high-church case for the church's jurisdictional autonomy through the independent rights and powers of Convocation.<sup>31</sup> Where previously Anglican patristic scholarship had been engaged with the larger question of justifying episcopacy as the original form of Christian government, patristics now came to be deployed by the nonjurors specifically to attack lay intrusion into the powers of the church.<sup>32</sup> Much of the debate revolved around the scholarly intricacies of one of the Baroccian manuscripts in the Bodleian Library, and, unsurprisingly, the nonjurors got the better of the debate, led by the greatest patristic scholar of them all, Dodwell, emphasizing the testimony of his beloved Cyprian.<sup>33</sup> It was at this point that whig polemicists changed strategy critically. Realizing that they were outgunned, they claimed that the patristic example was irrelevant to the 1690s. Instead, they began to argue from natural law theory and from legal precedent, and to debate the very meaning of the Reformation – was it lay- or clergy-driven? – drawing especially on Gilbert Burnet's *History of the Reformation* (1679, 1682).<sup>34</sup> Dodwell took the bait, attacking Burnet's understanding of the Reformation: the acts of the 'Sacrilegious Reign' of Henry VIII did not distract the clergy from fulfilling their Christ-given duty, even if they were approved by Archbishop Cranmer, and there was no reason to suppose that natural law would ever demand the church's entry into a contract that deprived it of sacerdotal rights in favour of the civil magistrate.<sup>35</sup> Whig responses prior to Tindal's, such as that by Edward Welchman and the 'official' response of William Wake, jumped at the chance to engage with the new legalistic approach, arguing from Reformation precedent and shifting to more general discussion about the relationship between church and state, drawing specifically

<sup>31</sup> Goldie, 'Convocation controversy', pp. 15, 17.

<sup>32</sup> Quantin, *Antiquity*, pp. 396–7: 'Before 1689 ... "Erastianism" did not figure prominently in the gallery of Episcopalian bugbears.'

<sup>33</sup> Goldie, 'Convocation controversy'; Jean-Louis Quantin, 'Anglican scholarship gone mad? Henry Dodwell (1641–1711) and Christian antiquity', in C. Ligota and J.-L. Quantin, eds., *The history of scholarship: a selection of papers from the seminar on the history of scholarship held annually at the Warburg Institute* (Oxford, 2006), pp. 305–56 at pp. 331–2.

<sup>34</sup> Andrew Starkie, 'Gilbert Burnet's *Reformation* and the semantics of popery', in J. McElligott, ed., *Fear, exclusion and revolution* (Aldershot, 2006), pp. 138–53.

<sup>35</sup> H. Dodwell, *A defence of the vindication* (London, 1695), pp. 102–4. Actually published 1697: Goldie, 'Convocation controversy', pp. 24, 34 n. 51; on Cranmer see H. Dodwell, *The doctrine of the Church of England* (2nd edn, London, 1697), pp. xii–xxiii, on Henry VIII: pp. xxiii–xxx.

on the admissions of royal supremacy by canonical Anglican divines such as Hooker and Laud.<sup>36</sup> But the nonjuror/high-church alliance again gained the upper hand, especially through the journalistic brilliance of Atterbury. Atterbury's *Letter to a Convocation man* was a manifestation of the shift in *method* from antiquarian scholarship to legalism: Atterbury pointedly argued that his case from constitutional precedent was understandable to even the most degenerate heretics, who ignored patristic testimony. Atterbury's superior journalism, and the subsequent clerical agitation, 'played no small part in the disintegration of the [whig] Junto administration', leading to King William's alliance with the Tories (whose leader, the earl of Rochester, was by 1701 in close alliance with Atterbury), and the summoning of Convocation.<sup>37</sup>

This Convocation, with its attempts to indict Toland's *Christianity not mysterious* and Gilbert Burnet's *Commentary on the thirty-nine articles* (1699), proved stillborn by mid-1702.<sup>38</sup> But Whigs would have been uncomfortably aware that Atterbury had had the best of the debates. It was this that Tindal realized. He complained at the legal ineptitude of another clerical Whig defender of royal supremacy, White Kennet.<sup>39</sup> And as we shall see, he deployed all of his legal acumen against the high-church case. But Tindal's legalism has to be contextualized not only in terms of content, but also methodology. Like Welchman and Wake before him, Tindal knew that he could only emphasize legal precedent after dismissing the case from patristics. Unlike his Whig counterparts, he offered serious methodological considerations on the nature of history and its relevance for the present, considerations that reflected his theological and historical erudition, his familiarity with recent domestic and continental scholarship, and his own theological idiosyncrasies.

Atterbury had argued not only that patristic scholarship demonstrated the necessity of independent episcopal jurisdiction, but also that the ability to conduct such investigation was a prerequisite of clerical status. In doing so, he followed a rich Restoration tradition which insisted on the pedagogical necessity of patristics for a successful clerical community, and, by extension, on the inability of those who had not received such training to perform clerical duties.<sup>40</sup> As early as his 1697 'Postscript', Tindal responded in scathing fashion: recent divisions had shown that patristic testimony was confused and self-contradictory, 'which if so,

<sup>36</sup> Edward Welchman, *A second defence* (London, 1698), p. 10 for Laud, p. 12 for Hooker; also pp. 15–16. For Wake: *The authority of Christian princes* (London, 1697), Preface, p. ii. Wake's other works in the controversy were *An appeal to all true members of the Church of England* (London, 1698), and the huge *The state of the church and clergy of England* (London, 1703).

<sup>37</sup> Bennett, *Tory crisis*, pp. 54–6.  
<sup>38</sup> *Ibid.*, pp. 56–66; Martin Greig, 'Gilbert Burnet and the Convocation controversy of 1701', *Historical Journal*, 37 (1994), pp. 569–92.

<sup>39</sup> [Tindal], *Rights*, pp. lxxviii–lxxix. Kennet's *The rights, powers, and privileges of an English Convocation* (1700) was a reply to Atterbury; Bennett, *Tory crisis*, p. 54.

<sup>40</sup> See e.g. E. Reyner, *A treatise of the necessity of humane learning for a gospel-preacher* (London, 1663); O. Walker, *Of education* (London, 1673); Dodwell, *Two letters of advice* (London, 1691); T. Bray, *A scheme of such theological heads* (London, 1697); Spurr, *Restoration*, p. 160. Those closer to the Reformed tradition questioned the necessity of patristic learning – e.g. J. Edwards, *The preacher* (Cambridge, 1708).

shows great disingenuity in the Clergy not to own it'.<sup>41</sup> This was not an unprecedented claim. Tindal himself cited the powerful authority of William Chillingworth. Despite their Laudian connections, the members of the Great Tew circle had indeed developed a highly sceptical attitude towards patristics as a source of doctrinal explanation, aligning the methodology with Roman Catholic traditionalism and drawing on the work of Daillé to dismiss it in favour of private scriptural interpretation.<sup>42</sup> But Tindal's claim for the internal divisions of the clergy had much more recent precedent: the trinitarian controversy. The sceptical historiography of the Jesuit Denis Petau (*Dogmata theologica* (1644)) had cast doubt on the concurrence of ante-Nicene positions with contemporary orthodoxy, with the influence of Platonism on the early church fathers particularly stressed. Petau's work – designed to strengthen the case for the necessity of papal councils to establish concord – was picked up by antitrinitarians as proof that trinitarianism was a corruption of primitive Christian beliefs.<sup>43</sup> While this trend continued in the 1690s, it also developed into a new position: the irenic insistence that contextual complexities – especially the influence of pagan philosophy on the fathers – meant that the attempt to extract orthodoxy from patristics was both doctrinally worthless and procedurally ill advised. This position was most clearly enunciated from Amsterdam by the Swiss scholar Jean le Clerc.<sup>44</sup> But it was also expounded in England in the mid-1690s publications of Gilbert Burnet, who similarly claimed that recourse to patristics only served to exacerbate rather than dispel difficulties in establishing a reliable position, and was a product of an unnecessary dogmatism.<sup>45</sup> These debates delivered a serious blow to high-church claims for a uniformly primitive identity for the Church of England, and initiated a wave of historical scepticism directed at the patristic learning that had so supported the church through the previous forty years.<sup>46</sup> Tindal's methodological stance regarding patristic proof for *jure divino* episcopacy drew on the historical

<sup>41</sup> [Francis Atterbury], *A letter to a Convocation-man* (London, 1697), p. 15; [Tindal], 'Postscript', pp. 179–80.

<sup>42</sup> Quantin, *Antiquity*, pp. 238–42.

<sup>43</sup> Martin Mulsow, 'The Trinity as heresy: Socinian counter-histories of Simon Magus, Orpheus, and Cerinthus', in J. C. Laursen ed., *Histories of heresy in early modern Europe* (New York, NY, 2002), pp. 161–70. For England: S. Hutton, 'The neoplatonic roots of arianism: Ralph Cudworth and Theophilus Gale', in L. Szczucki, ed., *Socinianism and its role in the culture of the sixteenth to eighteenth centuries* (Warsaw and Lodz, 1983), pp. 139–145 at p. 140.

<sup>44</sup> E.g. [Jean le Clerc], *The lives of Clemens Alexandrinus, Eusebius bishop of Caesarea, Gregory Nazianzen, and Prudentius* (London, 1696). See J. G. A. Pocock, 'Historiography and Enlightenment: a view of their history', *Modern Intellectual History*, 5 (2008), pp. 83–96 at p. 88; idem, 'Perceptions of modernity in early modern historical thinking', *Intellectual History Review*, 17 (2007), pp. 55–63 at p. 60.

<sup>45</sup> G. Burnet, 'The divinity and death of Christ', in *Four discourses* (London, 1694). Burnet's sermon was an attempt to defend himself and John Tillotson from charges of Socinianism; it was attacked by Samuel Hill, *A vindication of the primitive fathers* (London, 1695). For an irenic response to Hill that relied on historical scepticism see [anon.], *Remarks of a university man* (London, 1695), pp. 4–5; for unitarian approval of Burnet see [S. Nye?], *Considerations on the explications of the doctrine of the Trinity* (n.p. [London], 1695).

<sup>46</sup> Quantin, *Antiquity*, p. 407; W. Dockrill, 'The authority of the fathers in the great trinitarian debates of the sixteen nineties', *Studia Patristica*, 18 (1990), pp. 335–47.

scepticism and irenicism developed by le Clerc and Burnet during the trinitarian controversy.<sup>47</sup>

This stance was developed fully in the *Rights*, where recourse to patristics was dismissed as nothing more than another instance of ‘priestcraft’. Tindal was less concerned with whether patristic evidence backed particular doctrines than with repudiating the methodology itself – this was a sidestepping of the sociology of knowledge cultivated by prominent clerics since the Restoration. He adopted the sceptical attitude of Petau and le Clerc, as detailed above. Indeed, he directly cited not only those two but also the supposedly rigidly orthodox explanations of Ralph Cudworth and George Bull as ‘proof’ of the ambiguous relationship between ante-Nicene beliefs and modern orthodoxy. As Tindal gleefully noticed, the internal divisions within Oxford on the trinitarian questions had shown that high-church clerics were prepared to condemn the ‘true’ ante-Nicene position as elucidated by Bull and Cudworth.<sup>48</sup> Moreover, Tindal mocked the consequences of the Anglican recourse to patristics as a source of self-definition. Dodwell’s over-enthusiasm for a supposed primitive purity had led him to deny that immortality naturally belonged to the soul in his *Epistolary discourse* (1706), to the disgust of almost all of Dodwell’s nonjuring and high-church acquaintances.<sup>49</sup> Furthermore, no less heterodox a figure than John Toland, in *Amyntor* (1699), had translated three pages of Dodwell’s *Dissertationes in irenaeum* (1689) on the late date of the solidification of the Canon of the New Testament, turning Dodwell’s scholarship to his own sceptical ends.<sup>50</sup> With an obvious degree of *schadenfreude*, Tindal cited both these instances as evidence of the methodological emptiness of the Anglican recourse to primitive testimony: if Dodwell’s ‘old Admirers’ were now ‘displeas’d with him for shewing ... how different the Theology of the Primitive Fathers is from that now in vogue’, what possible grounds did they have for ‘forgiv[ing] the great Power he bestows on the Bishops’ on the same historical basis?<sup>51</sup>

Tindal’s alternative historical method was what we would now call relativist or contextual; its consequence was doctrinal irenicism. The Anglican case from patristics depended on the foundational claim that the fathers’ testimony was most valuable because originating in a historically privileged age (i.e. closest to the time of Christ). Tindal argued that ecclesiastical government was instead accommodated to historical circumstance, and that no age could thus be considered privileged. To be tied ‘to any particular form of Ecclesiastical Discipline’ was ‘inconsistent with the Law of Nature ... which requir’d Means most adapted to the Ends they are design’d to promote’. Indeed, there was providential design to this: ‘when any Circumstances happen, which cause Means to lose the Fitness

<sup>47</sup> Tindal was aware of the English publication of le Clerc’s views in the *Life of Nazianzen* ... see ‘Postscript’, p. 186.

<sup>48</sup> [Tindal], *Rights*, p. 195. The hebdomadal council on 25 Nov. 1695 had condemned the subordinationist explanation of the trinity of William Sherlock. Antitrinitarians sprang on this division within the ranks of the ‘orthodox’; e.g.: [Thomas Smalbroke (?)], *The judgment of the fathers concerning the doctrine of the Trinity* (London, 1695). <sup>49</sup> Quantin, ‘Dodwell’, p. 307 and passim. <sup>50</sup> Ibid., p. 308.

<sup>51</sup> [Tindal], *Rights*, pp. lxxi–lxxiv.

they had before, God by causing those Alterations does as much take off their Obligations, as if he had expressly declar'd it'.<sup>52</sup> In other words, if all ages are equivalent in God's eyes, the modern theorist can hardly privilege one over another.

This methodological principle led Tindal to a radical reinterpretation of God's original covenant with the Jews. Dodwell had argued as early as 1679 that the Christian bishop was equivalent with the Jewish high priest in that both permitted a mystical union with the *logos*, Christ – 'those not in communion with their bishop were not in communion with the Church or with God'.<sup>53</sup> Dodwell here went beyond the confines of orthodox Anglican apologetics, and Tindal jumped at the chance to knock another scholarly nail in the coffin of Anglican patristics.<sup>54</sup> When He 'condescended to act as King of the *Jews*', God legislated in a manner that was appropriate 'not only to the Circumstances the *Jews* were in with relation to other Nations, but to their own unaccountable Prejudices, gross Ignorance, profound Stupidity, and Hardness of Heart'.<sup>55</sup> Even in this instance consent to God's law was necessary before a form of ecclesiastical government could be established after the Exodus. It was essential to differentiate between God acting as 'Governor of the Universe, and ... as Prince of a particular Nation'.<sup>56</sup> Since circumstances change, God will make according changes in ecclesiastical policy; consequently, 'there can be nothing relating to Ecclesiastical Polity obligatory, except general Rules', such as honouring God.<sup>57</sup>

From here, Tindal could easily extend the accommodationist narrative to attack the belief that Christ had legislated in matters of ecclesiastical government. Accommodationism had recently achieved notoriety through the work of the Anglican scholars, John Marsham (1602–85) and John Spencer (1630–93), who had developed the themes of the twelfth-century rabbi Moses Maimonides to argue that Hebrew ritual law was derived from Egyptian paganism as an act of divine condescension to the backwards Jews to wean them off their idolatrous past.<sup>58</sup> The use of Spencer's and Marsham's works by Toland has been previously noted.<sup>59</sup> But where Toland in his *Origines Judaicae* (1709) went as far as to discuss the ritual law purely as a political invention, Tindal's claim had more to do with a specific belief about the nature of Christ's role on earth. While the post-Exodus

<sup>52</sup> *Ibid.*, p. 123.

<sup>53</sup> Spurr, *Restoration*, p. 153. Henry Dodwell, *Separation of churches from episcopal government ... proved schismatical* (London, 1679); *idem*, *A discourse concerning the one altar and the one priesthood* (London, 1683).

<sup>54</sup> On Dodwell's idiosyncrasy see Quantin, 'Dodwell'; Spurr, *Restoration*, pp. 159–60. Tindal does not mention Dodwell as his explicit target here, but it is clear that this is so he can tar all Anglican historiography with the Dodwellian brush.

<sup>55</sup> [Tindal], *Rights*, p. 149. See also p. 150.

<sup>56</sup> *Ibid.*, pp. 151, 312. These two passages were amongst the eleven specifically presented by the House of Commons to the grand jury of Middlesex.

<sup>57</sup> *Ibid.*, pp. 150–1.

<sup>58</sup> J. Assmann, *Moses the Egyptian* (Cambridge, MA, 1997), pp. 55–79; G. Stroumsa, 'John Spencer and the roots of idolatry', *History of Religions*, 41 (2002), pp. 1–23; F. Parente, 'Spencer, Maimonides, and the history of religion', in Ligota and Quantin, eds., *History of scholarship*, pp. 277–305.

<sup>59</sup> Champion, *Pillars*, pp. 155–7. Champion asserts that Spencer was a closet deist, a claim convincingly refuted in Stroumsa, 'Spencer'.

Jews had no settled form of government and thus consented to God's law, the early converts were already subject to a settled polity upon Christ's coming. Where orthodox Anglicans argued that Christ acted like Moses, 'as God's Viceroy', Tindal countered that rather he came as

a private Person, *whose Kingdom is not of this World*, to give not one Nation only, but all Mankind, Precepts relating to our Duty to one another as well as to God, without depriving any of the Right they were invested with: and consequently in whose hands the determining of Civil or Ecclesiastical Matters were before his Coming, in those he left them.<sup>60</sup>

The methodological foundation of the Anglican historical case – that episcopacy was modelled on the 'true' state of the church as dictated by Christ to the apostles and thence to the fathers – was entirely undermined by Tindal's contextualist accommodationism.<sup>61</sup> Moreover, the nontrinitarian overtones of this passage are evident, and there existed a long tradition of Socinian writers distinguishing Christ's role as a teacher of universal truths from Moses' role as lawgiver.<sup>62</sup> Tindal appropriated it specifically to bolster his assertion that unlike Moses at Horeb, Christ had not acted as a lawgiver in temporals. Early Christian church government was just as accommodationist as God's original covenant with the Jews, this time to the task of conversion, first of the Jews, then of the heathens. There was no reason for contemporaries to emulate either of these models: Anglican patristics was methodologically wrongheaded, for Christ had not legislated.<sup>63</sup> These claims were not 'deist' – Tindal was making no scholarly leaps that others had not before him. His claim was that Anglican scholarship did not need to be disproved – its foundations were both self-defeating and ignorant of God's functioning through history. Of course, Reformed critics had repudiated patristics before, in favour of private interpretation or even illumination, but Tindal's repudiation both rested on the latest scholarship and opened the door for his peculiar combination of legalism and Lockean tolerationism.

Tindal's few positive claims about patristic history – specifically about Cyprian's views on church government – were no match for the barrage of scholarship that Dodwell had appended to the majestic edition of the church father published at John Fell's Oxford press in 1682.<sup>64</sup> It was Tindal's *negative* case – his contextualist attack on the historical distinction between clergy and laity – that formed the majority of the ten chapters of the *Rights*. It was the repudiation of the possibility of defining the place of the church through history that left the door open for Tindal's unashamedly legalistic approach to the issue of church government in the long preface.

<sup>60</sup> [Tindal], *Rights*, pp. 151–2.

<sup>61</sup> [Tindal], *Second Defence*, pp. 42–3, 52–4, for direct references to Spencer.

<sup>62</sup> S. Mortimer, 'The challenge of Socinianism in mid-seventeenth-century England' (D.Phil. thesis, Oxford, 2007), p. 28, on Socinus himself and *passim*.

<sup>63</sup> [Tindal], *Rights*, p. 126.

<sup>64</sup> *Ibid.*, pp. 165–72; Quantin, 'Dodwell', pp. 313–14; N. Keene, 'John Fell: education, erudition and the English church in late seventeenth-century Oxford', *History of Universities*, 18 (2003), pp. 62–101 at pp. 76–80.



## III

These points of historical theology may seem far away from the putatively 'political' arena of church–state relations. But they were intrinsically rooted in the mechanisms of debate around 1700. They were certainly important to contemporaries: Tindal's ruminations on Jewish history were some of the most condemned aspects of his work during its virulent reception by clerics over the next five years, many of whom specifically pointed out that his argument was designed to topple their patristically grounded methodology. As one critic put it, if Tindal's shameless constitutionalism were to be accepted, the papist question 'where was your church before Henry VIII?' would be rendered unanswerable, given that it was the role of Anglican patristics to supply the answer.<sup>65</sup> Hundreds of pages of patristic scholarship were thrust back at Tindal to show the apostolic origins of episcopacy, with Cyprian as usual bearing the brunt of the case.<sup>66</sup> One critic refused to discuss church history after Constantine as it was irrelevant to the matter at hand, for which he was rebuked by the more present-minded Hearne.<sup>67</sup> John Hughes used a Greek and Latin edition of St Chrysostom as a vehicle to attack Tindal alongside Selden, Hobbes, and Erastus.<sup>68</sup> The century-old patristic scholarship of Isaac Casaubon was republished to counter Tindal's attack on *jure divino* episcopacy.<sup>69</sup> Almost thirty years later, a critic was still drawing attention to deficiencies in Tindal's Greek as proof of his incapacity to take part in debates about ecclesiastical politics.<sup>70</sup> Without first repudiating the case from patristics, Tindal could not open the door for his *positive* argument, the case from legal precedent, to which we can now turn.

The longest continual section of the *Rights* was the preface, which offered an extended exposition of Reformation legal precedent in favour of secular supremacy over ecclesiastical matters. Tindal's legal case was Erastian – he admitted as much, and even argued that 'the ablest of the Reformers abroad were in his [Erastus's] sentiments'.<sup>71</sup> But what did it mean to be an Erastian in post-Restoration England?

Historians of political thought have almost inevitably linked Erastianism to 'Hobbesism'. Two genealogies have been constructed for the progress of Hobbesian 'tolerationist Erastianism' in Restoration England. The first places emphasis on those careerist clergymen who scholars continue to insist on anachronistically labelling 'liberal' and inappropriately tagging with the name given

<sup>65</sup> [Connors Place], *Adversaria* (London, 1709), p. 10.

<sup>66</sup> [William Oldisworth], *A dialogue between Timothy and Philatheus* (London, 1709), pp. 35–77, 193; John Potter, *A discourse of church-government* (London, 1707), pp. 124–211; George Hickes, *Two treatises* (London, 1707), passim; [anon.], *Dangerous positions* (London, 1708), 'A preliminary', pp. iv–vi.

<sup>67</sup> Hearne, *Remarks*, II, p. 14, criticizing Potter, *Discourse*.

<sup>68</sup> St John Chrysostom, *Sancti patris nostri Joannis Chrysostomi Archi-episcopi Constantinopolitani de sacerdotio. Libri VI* (Cambridge, 1710).

<sup>69</sup> Isaac Casaubon, *De libertate ecclesiastica* [1607], in George Hickes, *Two treatises* ... (3rd edn, 2 vols., London, 1711), II, Appendix.

<sup>70</sup> Anon., *The religious, rational, and moral conduct*, pp. 13–14.

<sup>71</sup> [Tindal], *Rights*, p. lxi.

them by their opponents, 'latitudinarians'.<sup>72</sup> These clerics, the most famous of which were Edward Stillingfleet and John Tillotson, developed, at certain moments, an Erastian justification for the imposition of uniformity in *adiaphora* as congenial to the civil peace, grounded in the natural law assertion that rights over such matters were transferred to the civil power, leading to accusations of 'Hobbism'.<sup>73</sup> This allowed them to argue (again only at points) for the comprehension of dissent on terms imposed by the civil sovereign. But as Richard Ashcraft has comprehensively shown, the old historical claim that this position was 'tolerationist' can only be upheld by accepting their rhetorical claims to 'moderation' at face value.<sup>74</sup> Tindal's Erastianism could hardly be indebted to this tradition, given that from *Power of the magistrate* onwards he specifically and resolutely limited the right of the magistrate in *adiaphora* by denying that the right to worship as one pleases can be transferred to the magistrate.<sup>75</sup>

A second claim to a Hobbesian tradition of 'Erastian tolerationism' has been made by Jeffrey Collins. The most important historical presentations of a 'more tolerant Hobbes' places the burden of evidence on the famous passage in chapter 47 of *Leviathan* where Hobbes seems to advocate Independency, and to the alterations of the passage in the Latin edition of 1668. This is not the place to assess these interpretations; rather we must discern whether contemporaries actually *perceived* Hobbes's theory as 'tolerationist Erastianism', and more specifically whether Tindal drew on it. Collins's claim that there existed a Hobbesian tolerationist tradition rests a great deal on the fact that Interregnum Presbyterians attacked *Leviathan*, and on the case study of Henry Stubbe, who is claimed to have drawn the Owenite Independents close to Hobbism.<sup>76</sup> But the first fact does not prove that any tolerationists actually utilized the doctrines of *Leviathan*, and the second overplays Stubbe's influence.<sup>77</sup>

<sup>72</sup> For extremely healthy scepticism see J. Spurr, "'Latitudinarianism" and the Restoration church', *Historical Journal*, 31 (1988), pp. 61–82.

<sup>73</sup> J. Marshall, 'The ecclesiology of the latitudemen 1660–1689: Stillingfleet, Tillotson and "Hobbism"', *Journal of Ecclesiastical History*, 36 (1985), pp. 407–27. Gilbert Burnet held an idiosyncratic irenicism that needs to be disentangled from the positions of Tillotson and Stillingfleet: M. Greig, 'Gilbert Burnet and the problem of non-conformity', *Canadian Journal of History*, 32 (1992), pp. 1–24.

<sup>74</sup> R. Ashcraft, 'Latitudinarianism and toleration: historical myth versus political history', in R. W. F. Kroll, Richard Ashcraft, and Perez Zagorin, eds., *Philosophy, science, and religion in England, 1640–1700* (Cambridge, 1992), pp. 151–77. Cf. Locke's early intolerant Erastianism: J. Rose, 'John Locke, "matters indifferent", and the Restoration of the Church of England', *Historical Journal*, 48 (2005), pp. 601–21.

<sup>75</sup> Some contemporaries suggested that tolerationist claims were founded on the Hobbesian argument that religion is a tool of the sovereign. But as Parkin aptly summarizes, 'One would be hard pushed to find such a view expressed openly in the dissenting literature': Parkin, *Taming*, p. 255.

<sup>76</sup> On Presbyterian opposition: J. R. Collins, 'Silencing Thomas Hobbes: the Presbyterians and *Leviathan*', in P. Springborg ed., *The Cambridge companion to Hobbes's Leviathan* (Cambridge, 2007), pp. 478–99; J. R. Collins, *the allegiance of Thomas Hobbes* (Oxford, 2007), pp. 207–19, for Stubbe: pp. 220ff.

<sup>77</sup> J. Rose, 'Hobbes among the heretics', *Historical Journal*, 52 (2009), pp. 493–511 at p. 503.

This is not to say that nonconformists did not draw solace from royal indulgences (such as those of 1672 and 1687), and a minority of polemicists such as Stubbe, Bulstrode Whitelocke, and Philip Nye did indeed canvass for an indulgent toleration from the godly magistrate.<sup>78</sup> But tolerationists from Roger Williams, John Milton, and John Humfrey onwards (and eventually Locke) campaigned not solely for indulgence from above, but for a consistent recognition of the rights of diversity in public worship.<sup>79</sup> That Hobbes was anticlerical and a doctrinal minimalist – aspects of his work that could well have (indirectly) informed later anticlericalists like Tindal – in no way means that he was also a source for tolerationist arguments, nor, more importantly, that tolerationists adopted *his* Erastian model. Tindal specifically and deliberately differentiated his Erastianism from that of Hobbes, claims that his modern historians seem to have incorrectly treated as disingenuous, following in the footsteps of his clerical critics.<sup>80</sup>

Harrington did pick up Hobbes's 'civil religion', and merged it with tolerationism. It is the Harringtonian tradition that, we are told, fed into 'radical' whig thought of 1690–1720. Tindal's *Rights* is a perfect counterexample to the current dominance of this narrative. Both his Erastianism and his conception of the church as a 'democratic society' were indebted to a very different tradition to Hobbesian-Harringtonian 'civil religion'.<sup>81</sup>

Looking first at Tindal's arguments in the 1697 reponse to Atterbury, we find that unlike Hobbes's, Stillingfleet's, and Samuel Parker's, Tindal's Erastianism was grounded not on generalized and philosophical natural law arguments: these he reserved for his case for toleration. The rhetorical force of his Erastianism was directed at the subjugation of clerical legislative powers, *not* towards establishing the necessity of civil control over *adiaphora*, let alone granting the sovereign the power to establish a 'civil religion'. It should also be remembered that Tindal's case was developed in the context of the Convocation controversy, and specifically in response to Atterbury's turn to argument from Reformation constitutional precedent. So Tindal's 1697 'Postscript' dismissed the high-churchman's

<sup>78</sup> M. Goldie, 'Toleration and the godly prince in Restoration England', in J. Morrow and J. Scott, eds., *Liberty, authority, formality* (Exeter, 2008), pp. 45–66.

<sup>79</sup> J. Coffey, 'Puritanism and liberty revisited: the case for toleration in the English Revolution', *Historical Journal*, 41 (1998), pp. 961–85; G. Burgess, 'Thomas Hobbes: religious toleration or religious indifference?', in C. J. Nederman and J. C. Laursen, eds., *Difference and dissent* (Lanham, MD, 1996), pp. 139–61.

<sup>80</sup> [Tindal], *Rights*, pp. 28, lxxxiii. The association of Tindal with Hobbism is strongest in Starkie, *Bangorian*. But see also the influential M. Goldie, 'The reception of Hobbes', in J. H. Burns, ed., *Cambridge history of political thought, 1450–1700* (Cambridge, 1991), pp. 589–615, which shifts from recognizing that Tindal's *opponents* identified him with Hobbes (p. 612) to claiming that 'Tindal in the 1700s, borrowed Hobbes' work to construct a ... Whig civil religion' (p. 615).

<sup>81</sup> For the claim that Tindal 'follow[ed] Harrington's analysis [in] consider[ing] the Church as a democratic society': Champion, *Pillars*, pp. 136–7. Champion claims that Tindal cited Harrington (*Pillars*, pp. 97–8 (citing *Rights*, pp. 170, 357)). Having consulted all four editions of the *Rights*, I have been unable to locate a reference to Harrington.

legal knowledge: Tindal evidently drew on his own practical experience at this point. For Tindal, Atterbury's account of the legal status of Convocation was preposterous: if, as he had claimed, Convocation was a court of judicature, it must have a right to judge appeals, but 21 Henry VIII had ensured that all appeals were to be made through parliament.<sup>82</sup> As for Atterbury's most spectacular claim, that Convocation should be summoned as often as parliament, the high-churchman wrote in typical clerical ignorance of legal precedent: 'he cannot bring one Lawyer of his Opinion, they being all against him, as is the constant Practice of the Clergy'.<sup>83</sup> Indeed, Burnet's *History* had shown that it was the clergy themselves who had petitioned for the act (25 Henry VIII) that forbade the clergy to confer about drawing up new canons without the king's licence.<sup>84</sup> The legal case was amalgamated into the (non-Hobbesian) contractarian themes of the main text: the legal system had always worked on the basis that the people could not be bound in things indifferent, 'which alone are subject to humane Empire', without 'their own Consent given in Parliament'. It was only papal usurpation of temporal power that prompted the 'Clergy ... to bind the Laity by those Laws they never consented to' – a ploy that was never fully successful, as Tindal proved with a barrage of legal precedent from even the times of 'Darkness and Superstition' of Edward III and Richard IV.<sup>85</sup>

It is this kind of constitutional Erastianism that forms the majority of the long preface to the *Rights*. As Tindal pointedly emphasized in the first sentence, the work sought to show 'what is meant by the Church of *England* as by *Law* establish'd', an investigation that could only lead one to conclude that the Reformation church, 'being establish'd by Acts of Parliament, is a perfect Creature of the Civil Power'.<sup>86</sup> Again, despite the supposed end of the Convocation controversy in 1701, Tindal picked Convocation as the axis around which the debate rotates: if the essence of government consisted in being able to reward and punish, then 'as to a Legislative Power, if that belongs to the Clergy by Divine Right, it must be when they are assembled in Convocation'. Yet any lawyer worth his salt knew that this had been barred to the clergy by 25 Henry VIII, c. 19, and Tindal's preface then proceeded to offer a vastly detailed legal history of the subordination of Convocation to parliamentary power.<sup>87</sup> Indeed, this process had only enshrined the ancient religious liberties of the Germanic ancestors of the British, as reported by Tacitus. Only the intrusion of papal canon law disrupted the ancient state of affairs.<sup>88</sup>

It is essential to recognize that, quite incompatibly with a Hobbesian Erastianism, Tindal's post-Reformation constitutional history focused specifically on *parliamentary* rights over Convocation. His use of the example of the canons decreed by the Convocation of 1640, widely held to be illegal because it had not been ratified by parliament and had sat after parliament's dissolution, is

<sup>82</sup> [Tindal], *Rights*, pp. 196–7.

<sup>83</sup> [Tindal], 'Postscript', p. 197.

<sup>84</sup> *Ibid.*, pp. 198–9.

<sup>85</sup> *Ibid.*, pp. 201–3.

<sup>86</sup> [Tindal], *Rights*, pp. iii–iv, my emphasis.

<sup>87</sup> *Ibid.*, p. vii.

<sup>88</sup> *Ibid.*, pp. viii–ix, cf. 'Postscript', p. 203.

indicative of his case.<sup>89</sup> This focus on the power of summoning Convocation lying in crown-in-parliament is markedly different from the Hobbes/Stillingfleet natural law argument, which was of course designed with the aim of not splitting ecclesiastical power to ensure doctrinal unity, where Tindal's was designed to promote the diametrically opposite claim that each believer was free to worship as he wished. But we are still left wondering, if Hobbes and the 'civil religion' tradition was not Tindal's source, what was?

The answer is a legal tradition, as old as Christopher St Germain's *Doctor and student* (1528), which placed ecclesiastical supremacy in crown-in-parliament. St Germain's text came to serve as a hugely popular handbook for lawyers in the following century and a half.<sup>90</sup> As Jacqueline Rose has documented, its message appealed to 'two groups of people ... parliamentary and legal', both of whom had an interest in circumscribing clerical legal power. And as she has importantly emphasized, the tradition thus incorporated a dose of anticlericalism often as virulent as that to be found in Hobbes or Harrington:

Whether there was any further stimulus for lawyers' anticlericalism than incessant turf wars with church courts is unclear, but many approached the supremacy in laicising mood. At the root of their account was the idea that the church was a body of believers, laity as well as clergy ... These writers shared two key marks of anticlericalism with advocates of monarchical supremacy. They wrote histories of the decline of primitive pious clergy into greedy usurpers of power gained by seducing princes (never parliament) into ceding authority. Secondly, and relatedly, they argued churchmen were ministerial not magisterial.<sup>91</sup>

This tradition proved attractive to parliament-supporting lawyers in the civil war, such as Edward Bagshaw and William Prynne, who sought to circumscribe the powers of both the Laudian episcopate and the king. It is crucial to realize that Tindal was appropriating precisely such arguments. Like St Germain and his legal followers, he was at pains to define the church as 'a body of believers, laity as well as clergy', specifically against the claims of high-churchmen such as Hill.<sup>92</sup> And as did the 'St Germainists', he linked the claim for Church independency with papal intrusion. Rose comments, 'The jurisdictional sin which later political theorists dubbed *imperium in imperio* had long been complained of by lawyers as the

<sup>89</sup> Tindal, *Rights*, pp. viii, xlvi. Cf. Edward Bagshaw, *Two arguments* (1641), quoted in Rose, 'Royal ecclesiastical supremacy', p. 332. On the 1640 canons: E. S. Cope, 'The Short Parliament of 1640 and Convocation', *Journal of Ecclesiastical History*, 25 (1974), pp. 167–84.

<sup>90</sup> J. H. Baker, 'Introduction', in *Christopher St Germain, Doctor and student* (Birmingham, AL, 1988); A. Cromartie, *The constitutionalist revolution* (Cambridge, 2006), pp. 33–59, 99, 143, 185.

<sup>91</sup> Rose, 'Concepts of royal ecclesiastical supremacy', pp. 60–1.

<sup>92</sup> *Ibid.*, p. 63; [Tindal], *Rights*, pp. lxxxvii, 144; see also his claim that there was extensive biblical evidence for lay preaching, pp. 131–3, 164–5. Bagshaw's and Prynne's allegiance to parliament would later waiver.

crime of *praemunire*'; this sentence could have been written with Tindal specifically in mind.<sup>93</sup>

Here then is a source for Tindal's non-Hobbesian Erastianism, one which makes a great deal of sense given his legal background. However, there is further historical confusion to consider. The non-sitting of Convocation between 1662 and 1689 meant that whereas 'the idea of mixed monarchical supremacy often arose in debates over canons and church legislation, after 1660 these debates appear to have subsided'.<sup>94</sup> However, the 'St Germainist' tradition did not disappear. It survived in the debates over toleration – parliament combated Charles II's attempts to repeal the Act of Uniformity in 1663 and his Act of Indulgence of 1673 by reminding him that, for all his status as head of the church, such a move was a repeal of law, and thus could not be enacted without its approval.<sup>95</sup> This was its use *against* toleration, but toleration *from above*, by indulgence. In the hands of lawyers like Matthew Hale – deeply influenced by John Selden – it was also used to curb clerical power: 'Hale's monarchist language, like St Germain's and Bagshaw's, slipped seamlessly into an argument for royal supremacy exercised by or in conjunction with parliament'.<sup>96</sup> It is to this tradition that Tindal's Erastianism undoubtedly belongs. Tindal approvingly cited Robert Washington's *Observations upon the ecclesiastical jurisdiction of the kings of England* (1689) as a source-book of correct Erastian precedent.<sup>97</sup> Washington, a whig lawyer who Tindal may have been professionally acquainted with, had argued against James II's declaration of indulgence and his ecclesiastical commission, which had suspended the bishop of London, by pointing out the 'inveterate error' of 'ascribing to the King all such power, Jurisdiction and Authority, as by the Law of *England* and the very Original Constitution of our Government, is lodged in the Legislative body of the Kingdom', and offered a battery of legal precedent to support his case.<sup>98</sup> For Washington, 'True notions of the supremacy were under attack from *jure divino* clericalism on the one side, and common law arguments for royal prerogative on the other ... the Act of Supremacy did not translate papal power to the king, and only the clergy, not the laity, submitted to royal supremacy'.<sup>99</sup>

This was exactly Tindal's case, and that he was prepared to cite an anti-absolutist whig lawyer arguing *against* toleration by indulgence is surely conclusive evidence that his Erastianism was not derived from Hobbesian civil religion. Tindal's approach to constitutional history was drawing on a tradition of Erastianism derived not from Hobbes – who of course always sought to

<sup>93</sup> Rose, 'Concepts of royal ecclesiastical supremacy', p. 63. Tindal accuses the clergy of *praemunire* (citing 25 Henry VIII, c. 20) at *Rights*, p. 390.

<sup>94</sup> Rose, 'Concepts of royal ecclesiastical supremacy', pp. 70–1.

<sup>95</sup> Rose, 'Royal ecclesiastical supremacy', p. 332.

<sup>96</sup> Rose, 'Concepts of royal ecclesiastical supremacy', p. 89. <sup>97</sup> [Tindal], *Rights*, p. xi.

<sup>98</sup> [Robert Washington], *Some observations* (London, 1689), sig. A2r. For Washington's identity as a whig lawyer see *The entring book of Roger Morrice, 1677–1691*, ed. M. Goldie et al. (6 vols., Woodbridge, 2007), v, p. 542.

<sup>99</sup> Rose, 'Concepts of royal ecclesiastical supremacy', pp. 97–9.

avoid separation of sovereign power<sup>100</sup> – but from a legal tradition which placed ecclesiastical supremacy in crown-in-parliament, a tradition developed by St Germain, Selden, and Hale, but used as often as not to challenge a toleration imposed from above by a putatively Catholicizing king.<sup>101</sup> This was a tradition which was as suspicious of monarchical power as much as clerical, and which sought to limit the powers of Convocation as a tool of priests or monarchs, *not* to enhance the powers of the sovereign. That it appealed to Tindal is hardly surprising given his own legal background and his Lockean reticence about monarchical power in religion in *Power of the magistrate*.<sup>102</sup> Like almost every good whig, Tindal saw Hobbes as an absolutist (both in politics and ecclesiology) of the most brutish kind.<sup>103</sup> The road to peace lay not in uniformity but in free expression, ‘as this wou’d prevent all Schism on the account of Ecclesiastical Discipline’, and ‘Priestcraft ... must inevitably sink.’<sup>104</sup>

#### IV

It was Tindal’s indebtedness to the St Germainian tradition that allowed the free play of Lockean tolerationism, based on a separation of church and state. Crucially, this means that contrary to the claims of historians, Tindal’s Erastianism did not imply a case for ‘civil religion’ in either a Hobbesian or Harringtonian mould. As Collins himself realizes, ‘Hobbes’s humanism trumps his Protestantism.’<sup>105</sup> Harrington, of course also indebted to Machiavelli, praised Hobbes’s civil religion: ‘they all agreed that the civil commonwealth was the high priest’.<sup>106</sup> But as a nontrinitarian, Tindal believed that Christ was the last priest. Indeed, the claim that ‘republicanism’ was naturally congenial to Socinianism seems to stem from a somewhat lazy syncopation of Socinianism with a vague ‘rationalism’, and from ignorance of actual Socinian theology.<sup>107</sup> ‘Civil religion’ in any guise is simply incompatible with Tindal’s argument. His Erastianism was

<sup>100</sup> Apart from his grave warnings about the dangers of a mixed constitution in *Leviathan*, Hobbes explicitly argued for the king’s sole supremacy because it was asserted in 25 Henry VIII, c. 19, prior to the parliamentary declaration of him as the head of the church in 26 Henry VIII, c. 1: *A dialogue between a philosopher and a student*, ed. A. Cromartie (Oxford, 2005), p. 108.

<sup>101</sup> Rose, ‘Concepts of royal ecclesiastical supremacy’, pp. 59–99; A. Cromartie, *Sir Matthew Hale 1690–1676: law, religion and natural philosophy* (Cambridge, 1995), pp. 161, 190 and passim. For Washington’s citations of Selden’s notes to his *Eadmer* (1623) on the need for *parliamentary* approval for indulgence see *Observations*, p. 240.

<sup>102</sup> For the similarity of conception of the church between this legalistic tradition and Locke see Rose, ‘Royal ecclesiastical supremacy’, pp. 60, 63.

<sup>103</sup> Parkin, *Taming*, pp. 340–2, 364–8.

<sup>104</sup> [Tindal], *Rights*, p. 141.

<sup>105</sup> Collins, *Allegiance*, p. 57. Rose, ‘Heretics’, p. 502, recognizes the mismatch in Collins’s argument.

<sup>106</sup> Goldie, ‘Harrington’, p. 206. Collins uses Harrington’s support as proof of Hobbes’s Independency, *Allegiance*, pp. 186, 189–91.

<sup>107</sup> Worden, ‘Revolution of 1688–9’, p. 252. Pocock’s linking of Harrington’s republican humanism with the ‘Socinianism of the Interregnum’ is similarly misinformed: J. G. A. Pocock and G. J. Schochet, ‘Interregnum and Restoration’, in J. G. A. Pocock, G. J. Schochet, and L. G. Schwoerer, eds., *The varieties of British political thought, 1500–1800* (Cambridge, 1993), pp. 146–79 at p. 168.

not humanist, but Reformation-legalist – indeed, it was far closer to Erastus's own doctrine than Hobbes's granting of sacerdotal powers to the monarch.<sup>108</sup> That both humanist civil religion and Tindal's tolerationism shared an anticlerical streak does not imply a causal relationship. Tindal's anticlericalism does lead to some tension about the precise nature of Erastian control over the clergy. While he argued in true Lockean fashion that 'all the right anyone has to be an ecclesiastical officer ... depends on the consent of the parties concerned', he also assigned to the clergy the humiliating role of ambassadors for the magistrate, reminding the people that their religious associations must not infringe on the public good.<sup>109</sup> But this final tension between populism and Erastianism seems to be resolved if we assume that Tindal meant that the magistrate would appoint the consensual leaders of the churches to these roles anyway: there is certainly nothing in the text to suggest that these ministers were to prescribe a civil religion to the populace.

As a case-study, Tindal's *Rights* throws serious doubt on the strong association assumed between 'republican civil religion' and whig anticlericalism that has been proposed in the historiography over the last thirty years. Of course, this assumption rests on the thesis that 'after 1689, republicanism became "a language rather than a programme"'.<sup>110</sup> But in the case of anticlericalism, historians have tied a reified 'republicanism' to a doctrinal programme. The methodological apparatus used to support this claim seems to dissolve rapidly into a case of picking favourites. What are described as the constituent features of anticlerical republicanism as a 'language': 'rationalism', an emphasis on 'liberty' against 'tyranny', an opposition to 'slavery' or 'arbitrary rule' and of backsliding towards Rome, are nebulous expressions of a positive register common to all English writers, and so are to be found in the highest of the high-church positions (supposedly diametrically opposite to the 'republicans'). One example will suffice here, Charles Leslie's *Regale and pontificate*, published several times in 1701 and 1702, and intended as an unmitigated defence of the church's independent power (and thus one of Tindal's targets). Leslie was named after the martyred king, became a nonjuror after the Revolution, and was accused by Gilbert Burnet of engaging in 'many plots, and in writing many books against the revolution and the present government' – hardly a republican pedigree. But Leslie's large tome ticked all the linguistic boxes of republicanism: it defended the '*Liberty of Every Subject*', accused his opponents of promoting tyranny, arbitrary rule, popery, and self-interested corruption, and defended its theology and political precepts as rational.<sup>111</sup> Unlike political commitments, the positive and negative registers of language were shared in early modern England, as Conal Condren has recently

<sup>108</sup> See the still essential J. N. Figgis, 'Erastus and Erastianism', *Journal of Theological Studies*, 2 (1900), pp. 66–101.

<sup>109</sup> [Tindal], *Magistrate*, p. 21.

<sup>110</sup> Champion, *Toland*, p. 96, quoting Pocock, 'Introduction', p. 42.

<sup>111</sup> [Charles Leslie], *The case of the regale and of the pontificat stated* (2nd edn, London, 1702), pp. 5, 13, 66, 157, 205 and passim.



demonstrated.<sup>112</sup> ‘Republicanism’ has proved attractive as an organization concept, a way of transforming seventeenth-century intellectual life into the ideologically mapped conflict we are so familiar with from our own political experience. That in post-Civil War England there were genuine republican theorists of ‘civil religion’ – not least Harrington – is undeniable. That their humanist ‘civil religion’ exerted much influence on later whig thought is highly dubious, especially given the evidence for the influence of more suitable traditions, not least the St Germainian. The impact of legalistic anticlericalism deserves further attention.

## V

Tindal’s text had little to do with any reified ‘republicanism’, and to understand its place in contemporary debates we must step away from the abstract field of ‘political theory’ to consider the prolix and non-abstract arguments from history and constitutional precedent that constituted the majority of the text. Tindal’s lack of abstraction may lead modern historians to label him as ‘not much of a thinker’, but it is precisely these aspects of his work that led to the raging notoriety of his work, as compared, for example, with the almost deathly silence that initially greeted that most abstract of ‘masterpieces’ of political thinking, Locke’s *Two treatises*.<sup>113</sup>

Tindal’s work was met by a storm of protest, mostly from high-church sympathizers of Atterbury. Tindal published two defences which added little to his argument, in which he attempted to align himself with the acceptable face of Erastian clerical whiggism – Wake – and to reassert that the high-church party’s ignorance of legal precedent in their replies verged on law-breaking.<sup>114</sup> After several failed attempts legally to proscribe the work, measures were finally taken when the House of Commons responded to a ‘complaint’ – who made it is unknown – by marking the *Rights* and its *Defences* ‘scandalous, seditious and blasphemous’, having them burnt that day by the common hangman, and requesting (fruitlessly) the attorney-general to prosecute the author and publisher.<sup>115</sup> It is interesting to note that it was amongst Tindal’s high-church critics that we find the birth of the concerted attempt to twist the *Rights* into the shape of *Leviathan* so eagerly appropriated by modern historians. Tindal, it was claimed, lied about being a Hobbiist, and presented the civil magistrate with exactly the same powers as did Hobbes.<sup>116</sup> Indeed, all Erastianism was indistinguishable from Hobbism.<sup>117</sup> This was dangerously subversive, and Tindal was trying to ferment revolution in

<sup>112</sup> C. Condren, *Argument and authority in early modern England* (Cambridge, 2006), p. 159 and passim.

<sup>113</sup> On Locke’s contemporary singularity in his abstraction see M. P. Thompson, ‘Significant silences in Locke’s *Two treatises of government*: constitutional history, contract and law’, *The Historical Journal*, 31 (1987), pp. 275–94.

<sup>114</sup> [Tindal], *Defence*, p. 12; [Tindal], *Second Defence*, pp. 9–10.

<sup>115</sup> *Journals of the House of Commons*, 25 Mar. 1710, p. 385. <sup>116</sup> [Carroll], *Spinoza reviv’d*, p. 36.

<sup>117</sup> William Whitfield, *The kingdom of Jesus Christ* (London, 1708), p. 3.

both church and state.<sup>118</sup> Conversely, his ‘Hobbist’ principles meant that he was actually *anti*-tolerationist.<sup>119</sup> Or even more strikingly, Erastianism was in fact a Roman Catholic invention, and it was no wonder that the ex-papist Tindal subscribed to it.<sup>120</sup> The tendency to classify Tindal’s work as ‘deistic’ – despite the fact that it contained nothing overtly deist – can similarly be traced to the personal attacks of high-church critics.<sup>121</sup> This is not to deny that Tindal may well have held ‘deistical’ positions from as early as c. 1690. But to start from this ‘knowledge’ in reading the *Rights* is to adopt the tactic of Tindal’s clerical opponents. Tindal may have been an arch-deist or closet republican, but his text reflected very different intellectual traditions. The gap between author and contextual meaning should not be forgotten.

<sup>118</sup> [Abel Evans], *The apparition* (London, 1710), p. 12; Hickes, ‘Preliminary dialogue’, sig. C5r, claims that Tindal’s supposedly Hobbesian Erastianism would have the same consequences as Civil War Independency.

<sup>119</sup> [Oldisworth], *Dialogue*, pp. 9, 28.

<sup>120</sup> [Charles Leslie], *The second part of the wolf strip* (London, 1707), pp. 24–5.

<sup>121</sup> And Tindal’s authorship was quickly common knowledge: Hearne identified him as the author as early as April 1706, and the printed announcement came on a title-page early in the next year: Hearne, *Remarks*, 1, p. 223; [Leslie], *Wolf strip*.